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\\Greg2001\clients\2001\Misc C\Childress\childress refundability 020105 rmw.wpd

UNITED STATES DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

SERIAL NUMBER: 10/644,502

ART UNIT: 3742

FILING DATE: 08/20/2003

EXAMINER: Fugua

APPLICANT: Rickey Childress

DATE OF OFFICE ACTION: 06/02/2004

TITLE: Method and Products for Microwave
Roasting

DATE OF RESPONSE: 02/04/2004

The Director of Patents and Trademarks
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office
Washington, DC 20231

Petition to Refundability of Fees Pursuant to §§ 37 C.F.R. 1.26 MPEP §§ 6.702

Comes now petitioner by and through the undersigned counsel and requests the refund of the additional fees of \$220.00 or any part thereof refundable to deposit account 06-0129 in the name of Gregory M. Friedlander in the above referenced case and in support thereof would allege and show as follows:

1. The entity claims small entity status.
2. An extension fee of one month was sent in for the above referenced previous response.
3. An additional extension was not required as shown by the certificate of mailing attached hereto and two checks for extension fees as a reference and the mailing certificate which is also attached hereto. Apparently, in error, the USPTO added the additional fee without noting that this



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had been timely filed by timely mailing by express mail as provided for in the CFRs.

4. Under 37 C.F.R. 1.26 and 35 U.S.C. 42 (d), the office may refund the fee paid by mistake.


Request is made that the fee reflected on the statement attached hereto be refunded to the deposit account 06-2129 in the Name of Gregory Friedlander in the above referenced case.

CONCLUSION

No additional fee is believed necessary.

The commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account 06-2129 in the name of Gregory M. Friedlander.

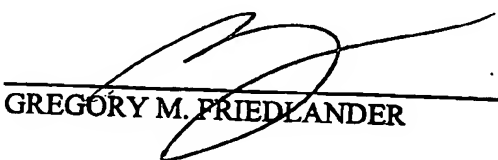
Respectfully submitted,



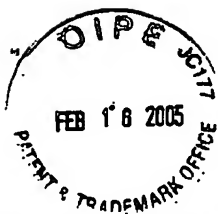
GREGORY M. FRIEDLANDER,
Registration No. 31,511
Gregory M. Friedlander & Associates, P.C.
11 South Florida Street
Mobile, Alabama 36606-1934
(251) 470-0303

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United State Postal Service as Express Mail NO. EV 278559098 US in an envelope addressed to: The Director of Patents and Trademarks, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Washington, DC 20231 on the 16th day of February, 2005.



GREGORY M. FRIEDLANDER



EV278558588US

PTO/SB/22 (10-04)
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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 (fees effective on or after October 1, 2004)		Docket Number (Optional)																									
Application Number 10/644,502		Filed 08/20/03																									
For Steve Grossman																											
Art Unit		Examiner Fugua																									
<p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.</p> <p>The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):</p> <table border="1"><thead><tr><th></th><th>Fee</th><th>Small Entity Fee</th><th></th></tr></thead><tbody><tr><td><input type="checkbox"/> One month (37 CFR 1.17(a)(1))</td><td>\$110</td><td>\$55</td><td>\$ <u>55</u></td></tr><tr><td><input checked="" type="checkbox"/> Two months (37 CFR 1.17(a)(2))</td><td>\$430</td><td>\$215</td><td>\$ <u>215</u></td></tr><tr><td><input type="checkbox"/> Three months (37 CFR 1.17(a)(3))</td><td>\$980</td><td>\$490</td><td>\$ _____</td></tr><tr><td><input type="checkbox"/> Four months (37 CFR 1.17(a)(4))</td><td>\$1530</td><td>\$765</td><td>\$ _____</td></tr><tr><td><input type="checkbox"/> Five months (37 CFR 1.17(a)(5))</td><td>\$2080</td><td>\$1040</td><td>\$ _____</td></tr></tbody></table> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input checked="" type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>06-2129</u>. I have enclosed a duplicate copy of this sheet.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>I am the <input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>31,511</u></p> <p><input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</p> <p>_____ Signature</p> <p><u>10/06/04</u> Date</p> <p><u>Gregory M. Friedlander</u> Typed or printed name</p> <p><u>251-470-0303</u> Telephone Number</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.</p>					Fee	Small Entity Fee		<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$110	\$55	\$ <u>55</u>	<input checked="" type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$430	\$215	\$ <u>215</u>	<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$980	\$490	\$ _____	<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1530	\$765	\$ _____	<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2080	\$1040	\$ _____
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This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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\\Greg2001\clients\2001\Misc C\Childress\childress pat resp 080904 jlc as filed.wpd

UNITED STATES DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

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EXAMINER: Fugua

APPLICANT: Rickey Childress

DATE OF OFFICE ACTION: 06/02/2004

TITLE: Method and Products for Microwave
Roasting

DATE OF RESPONSE: 11/01/2004

RESPONSE

The Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

This is in response to the Non-Final Office Action of June 2, 2004 having a period of response set to expire by September 2, 2004. A one month extension is requested. The patent office is authorized to charge deposit account 06-2129 in the name of Gregory Friedlander any additional extension fees necessary. This amendment is timely filed two months extended. The following amendments and remarks are respectfully submitted.

ELECTION:

No election was required.

IN THE SPECIFICATION

No changes were required.

IN THE DRAWINGS

New drawings will be submitted upon receiving an allowable claim if appropriate. None are believed to be required.

IN THE CLAIMS

CLAIMS

(cancelled) 1. I Claim a method for producing foods which maybe cooked in the presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance.

(cancelled) 2. The method of claim 1 further comprising the step of enclosing the food product in a partially breathable cover.

(cancelled) 3. The method of claim 2 wherein the breathable cover is polyester.

(cancelled) 4. The method of claim 3 wherein the polyester is of a thickness between 70-100 gauge.

(cancelled) 5. The method of claim 1 wherein the food product is comprised of flour and starch.

(cancelled) 6. The method of claim 5 wherein the product further comprises water.

(cancelled) 7. The method of claim 6 wherein the flour is from a group consisting of potato, wheat, corn, bran, rice or combinations thereof.

(cancelled) 8. The method of claim 1 further comprising the step of selecting at least one flavoring and combining at least a portion of the pellet with said flavoring. (and wherein the flavoring is finely ground or concentrated)

(cancelled) 9. The invention of claim 1 wherein the step of compression comprises grinding the food product into a paste and mixing with moisture

(cancelled) 10. The method of claim 1 wherein the step of routing comprises coating the pellet with oil.

(cancelled) 11. The method of claim 1 further comprising the step of separating the pellets and

microwaving the separated pellets.

(Cancelled) 12. The method of claim 1 further comprising packaging a plurality of pellets, comprised of at least one first pellet and at least one second pellet in a microwavable container having a top and a bottom layer of heat resistant plastic.

(cancelled) 13. The method of claim 12 wherein the container allows the passage of air but provides a moisture and heat barrier.

(Currently amended) 14. I Claim a method for producing foods which maybe cooked in the presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance and further comprising packaging a plurality of pellets, comprised of at least one first pellet and at least one second pellet in a microwavable container having a top and a bottom layer of heat resistant plastic and [The method of claim 12] wherein the container defines an interior and an exterior and wherein the container provides a separating means for separating the pellets from one another within the interior of the container.

(Currently amended) 15. I Claim a method for producing foods which maybe cooked in the presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance and further comprising packaging a plurality of pellets, comprised of at least one first pellet and at least one second pellet in a microwavable container having a top and a bottom layer of heat resistant plastic

and wherein the container provides a separating means for separating the pellets from one another
and [The method of claim 14] wherein the separating means comprises at least one seal within the
container between at least one pellet and at least one second pellet.

(Original) 16. The method of claim 15 wherein the seal is comprised of a fold in the material.

(Currently amended) 17. I Claim a method for producing foods which maybe cooked in the
presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance and further
comprising packaging a plurality of pellets, comprised of at least one first pellet and at least one
second pellet in a microwavable container having a top and a bottom layer of heat resistant plastic
and [The method of claim 14] wherein the seal is comprised of an[d] adhesive between the top layer
and the bottom layer of the container.

(Original) 18. The method of claim 14 wherein the seal comprises at least one baffle extending from
the bottom layer toward the top layer.

(currently amended) 19. The method of claim [13] 14 wherein the container further comprises
a paper wrapping exterior to the plastic.

(Currently Amended) 20. I Claim a method for producing foods which maybe cooked in the
presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance and [The
method of claim 1] wherein the step of compressing further comprises the step of selecting a shape

for the pellet, preparing a an extrusion having an interior corresponding to the shape selected, compressing the pellet within the extrusion.

(Currently amended) 21. I Claim a method for producing foods which maybe cooked in the presence of microwave energy comprising the steps of:

- a) selecting at least one fryable food product;
- b) compressing the food product into a pellet with a surface and an interior;
- c) coating at least a portion of the surface with a microwave heatable substance and [The method of claim 1] wherein the step of selecting comprises the step of selecting at least one second food product and coating the at least one second food product and with the at least one food product [further comprising the steps of adding a second layer of product] and wherein the at least one second food product is a non-starch food product.

(cancelled) 22. A microwavable pellet comprised of:

- a) a milled flour;
- b) a milled starch;
- c) an oil coating.

REMARKS

The claims required to be amended have been amended to make them independent. In addition, certain claims which were not originally allowed have received slight amendments in order to indicate the novelty as discussed below.

The examiner, for the prior claims, pursuant to §103 of the code combined the related pellet technology of Lodge and the packaging technology of Bratad in order to find obviousness. The applicant respectfully traverses this decision.

The reason for the lack of novelty, is the lack of common purpose in a product designed for an end user to transform the product. The prior art does not combine packaging for home use with pellets. This variation in technology allows for an unobvious result. Not merely a browned and heated product, but instead a product which the user can home fry into a edible, hot pellet generated food stuff.

In addition, the pellet coating is not shown in the prior art over another unmodified food source (claim 21).

Claim 14 has been amended to bring it into conformity with the changes shown in claims 15-18. Claim 20 does not appear to have been specifically rejected and provides for a novel method of presenting microwavable pellets designed according to the teachings of the patent.

CONCLUSION

For all of the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.


No additional fee is believed necessary.

The commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account 06-2129 in the name of Gregory

M. Friedlander.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit account 06-2129.

Respectfully submitted,



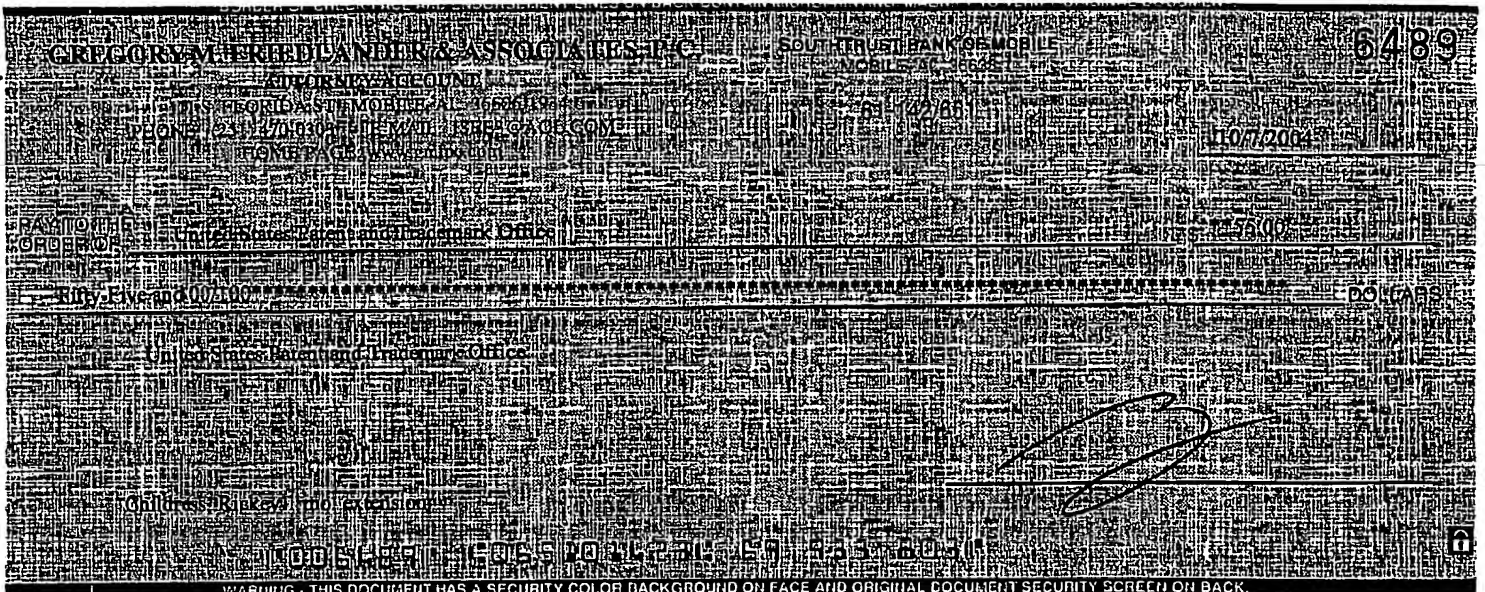
GREGORY M. FRIEDLANDER,
Registration No. 31,511
Gregory M. Friedlander & Associates, P.C.
11 South Florida Street
Mobile, Alabama 36606-1934
(251) 470-0303

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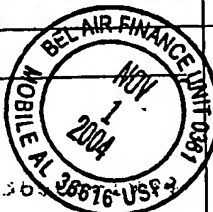
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<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>31,511</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
_____ Signature		<u>10/06/04</u> Date	
<u>Gregory M. Friedlander</u> Typed or printed name		<u>251-470-0303</u> Telephone Number	

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GREGORY M. FRIEDLANDER



Greg2001\clients\2001\Misc C\Childress\childress pat resp 080904 jlc as filed.wpd

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ELECTION:

No election was required.

Adjustment Date: 04/27/2005 SDIRETA1
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